File No. 445/28

19

Collection No. 1

Office of the Resident in Mysore Bangalore

Pros. Serial Nos. 1—13

Subject.

Age of consent for marriage.

Previous References.

C.O. 7 46/22

Later References.

186-29 Matters relating to women & Children in India.

745-31 Bill to amend Women's Rights.

S. 27, (Blue.)

MGIPC—FP—725DCF—S&P—(G-1576)—14-3-28—60,000.

SN.1. Letter N. 41- A.C.C, dated the 25th July 28, from the Secretary, Age of Consent Committee.

(1) The Collector, C.M. station, Bangalore, may be addressed in the matter. The Secretary, Age of Consent Committee, may be asked by telegram to send 10 copies of each of the documents. Drafts submitted.

C.K.Srikanta Iyer
2/8/28.

2/8/28

2/8

SN.2. Issued telegram N. 7255, of 2.8.28

SN.3 Issued N. 7270, of 3.8.28.

SN.4. Letter N. 161- A.C.C, dated the 3rd August 28, from the Secretary, Age of Consent Committee,

(2) A reply to SN.3 from the Collector has not yet been received. Copies of the documents will be sent to him as soon as this reply is received.

C.K.Srikanta Iyer - Action para (2).
8/8/28.

SN.5. Letter N. 3731- B- 28, dated the 13th August 28, from the Collector, Conservation, Bangalore.

(3) The Secretary, Age of Consent Committee, may be addressed with reference to para 2 of SN.1. 5 copies each of the documents referred to may be sent to the Collector, Conservation, Bangalore. Two drafts submitted.

10 copies have been received with SN.4

C.K.Srikanta Iyer
15/8/28.

Action para (3).

15/8

16/8

SN. 6 & 7. Issued Nos 7721 & 7723, dt 15-8-28.

SN. 8. D.O. letter No. H. 382/27-Judl., dated the 22nd August, 1928, from the C. of D., Home Dept.

SN. 9. Letter No. 377 A.C.C., dated the 13th Sept, 28, from the Secy., Age of Consent Committee, Simla.

P. Secs.'s I & II

According to the tour programme of the Age of Consent Committee at S.N. 9 (P. Sec. II), the Committee will arrive in Bangalore on the 9th November, 1928. They stay in Bangalore on the 9th November and leave for Mysore that night. They halt at Mysore on the 8th and 9th November. No communication has been received from the Govt. of India or the Secretary to the Age of Consent Committee as to what they are going to do at Bangalore and Mysore. The Secretary may be addressed in the matter. Draft submitted.

C. Sankara Iyer
4/10/28

Secretariat (Home C.O.) (5) Please see Secy's D.O. (from Coorg Office) No 191, dt 2nd Oct. to Mr. Shillidy,

Result (6) ACG 4/10/28 I don't think we need stir up the G. of I. in this matter. Surely it is for them to give us instructions. In any case our letter at J. will probably elicit some reply. ACG 4/10

5/10

Paras 5 and 6 of notes ante.

Please see D.O. letter No. H. 382/27- Judicial, dated the 12th October, 1928, received in Coorg Office from the Govt. of India, Home Dept. No instructions are given. Submitted for information.

C.K. Srikanta Iyer
20/10/28.

[Coorg office H 16/22].

From para (5).

I spoke to the Dewan about this. Apparently the Committee have made direct arrangements with the Mysore Govt. re their stay in Mysore. At Bangalore they are making their own arrangements.

24/X

S. N 10

FRom the Secy. to the Resident at Hyderabad, No. 2324-P, dated 3-4-29

Draft submitted.

C.V. Ramanatham
11.4.29

12.4.29

S. N. 11

Issued No. 3535, dt 22-4-29

XXXXXXXXX

S.N.12 From the Govt. of Mysore, No. 1122, dated the 6th May 1929.

10

Draft submitted for approval.

C.V. Ramanathan
13.5.29

13/5/29

S.N.13 Issued No.4573, /dated 25-5-29

P.T.O

Original in C.O. file no. 46/22 pl. 48.

Sir MOROPANT VISHWANATH JOSHI, Kt., K.C.I.E., *Chairman.*
*Members.*
Rai Bahadur Pandit KANHAIYA LAL.
Mr. A. RAMASWAMI MUDALIYAR.
Khan Bahadur MAHBUB MIAN IMAM BAKSH KADRI, O.B.E.
Mrs. M. O'BRIEN BEADON, M.B., B.S., (London) L. S. A.
Mrs. BRIJ LAL NEHRU.

PRESIDENT'S OFFICE
BANGALORE.
Registered No. 7551
Date of Receipt 1/8/28
Office No.

No. 41-A.C.C.

FROM

M. D. SAGANE, ESQ., M.A., LL.B.,
*Secretary, Age of Consent Committee,*

To

ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS.

*'Beverley,' Simla, the 20th July 1928.*

SIR,

I am directed to refer to the Government of India Home Department Resolution no. F.-382-27-Judicial, dated the 25th June 1928, and to inform you that the Age of Consent Committee has since met and decided to visit certain places in each province for taking oral evidence on the questions stated in the terms of reference. Before setting out on its tour of visits the Committee desires to elicit public opinion by means of a questionnaire (copy enclosed) by forwarding it to such persons and institutions within your province as would be in a position to express their views in their individual or representative character. I am therefore directed to request and seek for your help in this matter as mentioned hereafter.

2. With a view to expedite the enquiry the Committee has prepared a list (attached herewith ) of such persons and associations from your province, and copies of the questionnaire and other relevant papers are being sent to them direct for the expression of their views. The list is, however, by no means exhaustive or complete. There may be several other associations and persons unknown to the Committee who can give valuable information and help by way of written statements or oral evidence on the subject. I would therefore request you kindly to select from your province such individuals or representative institutions and persons outside the list who should in your opinion be asked to state their views in the enquiry, and immediately forward to each of them a copy of the questionnaire, the extracts of Sections 375 and 376, Indian Penal Code marked with the amendments suggested in Sir Hari Singh Gour's Bill, relevant portions of the entries from the second schedule of the Criminal Procedure Code and the letter issued by the Committee to individual addresses. copies of each of the documents mentioned are herewith forwarded for the purpose and more will be sent if required. The names of the institutions and persons whom you select may kindly be forwarded to me at an early date.

3. A list of the places to be visited in your province, and the names of persons whose oral evidence would be required by the Committee will be sent to you later along with a copy of its itinerary for such action as may be required.

I have the honour to be,

SIR

Your most obedient servant,

M. D. SAGANE,

*Secretary, Age of Consent Committee.*

M226HD—115—16-7-28—GIPS

1. C. N. Surya Prakas Rao, Esq., B.A., B.L.,
Govt. Pleader, Public Prosecutor and
Official Receiver, Civil & Military Station,
Bangalore

2. Miss E. Collins,
Lady Doctor,
Hajee Sir Ismail Sait Gosha Hospital,
Bangalore.

3. Secretary,
Municipal Commission,
Bangalore.

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Sir MOROPANT VISHWANATH JOSHI, Kt., K.C.I.E., *Chairman.*
*Members.*
Rai Bahadur Pandit KANHAIYA LAL.
MR. A. RAMASWAMI MUDALIYAR.
Khan Bahadur MAHBUB MIAN IMAM BAKSH KADRI, O.B.E.
Mrs. M. O'BRIEN BEADON, M.B., B.S., (London), L. S. A.
Mrs. BRIJ LAL NEHRU.

No. 42 A. C. C.

FROM

M. D. SAGANE, ESQ., M.A., LL.B.,

*Secretary, Age of Consent Committee,*

To

*Beverley' Simla, the July 1928.*

SIR,

You might be aware that the Government of India have by their Resolution no. F.-382-27-Judicial, dated the 25th June 1928, appointed a Committee to enquire and report about the law regarding 'Age of Consent' as contained in Sections 375 and 376 Indian Penal Code. The Committee has since commenced its work and will soon proceed to visit some places in India with a view to take evidence, if necessary, on the terms of reference.

2. Before setting out on tour the Committee proposes to elicit public opinion on certain points and would much appreciate an expression of your views on them. The chairman has therefore directed me to send a copy of the questionnaire prepared by the Committee for the purpose, and to obtain your views in writing in reply to it. Accordingly you are hereby requested to be so good as to help the Committee by sending your reply direct to me at Simla before the 15th of August next. In giving your answers you will please give reasons for the same wherever necessary, as a mere negative or affirmative statement 'yes' or 'no' would help the Committee very little.

3. I would draw your attention to the fact that this Committee is to investigate the matters only with regard to the law of 'Age of Consent' as laid down in sections 375 and 376, Indian Penal Code, and not in connection with Mr. Sarda's Bill which proposes to penalize child marriages. The latter is not directly within the purview of the Committee's enquiry. Nevertheless it is open to you to suggest, if you like, that the remedies both under the sections of the Indian Penal Code as well as those suggested in Mr. Sarda's Bill, or either of them may be adopted. I would also point out that even if Mr. Sarda's bill is passed (as it has emerged from the Select Committee) and marriages below 14 and 18 for girls and boys respectively are penalised, sexual connection by a husband after 13 and by a stranger after 14 if considered undesirable from the medical point of view or otherwise is not covered by Sections 375 and 376, Indian Penal Code, as they exist now. To facilitate reference the two sections of the Indian Penal Code are appended herewith, also the corresponding schedule from the Criminal Procedure Code, to show the safeguards that at present exist in trials under the said sections.

4. Further I have to inform you that you will be called to give oral evidence only when the Committee thinks it necessary for the elucidation of certain point or points in your written statement or for any other special reason. You will therefore please indicate in your written reply if you are agreeable to be examined orally if so required by this Committee. The date and place of the oral evidence will be intimated to you in due course after the itinerary of the Committee is fixed. In case you are orally examined you will get travelling and daily allowances at the prescribed rates.

I have the honour to be,

SIR,

Your most obedient servant,

M. D. SAGANE,

*Secretary, Age of Consent Committee.*

M226HD—10,000—16-7-28—GIPS

# THE AGE OF CONSENT COMMITTEE.

## QUESTIONNAIRE.

NOTE.—*The queries below may be answered wholly or in part according to the sphere of experience of each person answering. Persons willing to answer should send their written replies so as to reach the Secretary, Age of Consent Committee, Simla, by the 15th August at the latest.*

1. Is there any dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code ?

2. What are the circumstances which in your opinion justify—

(1) retaining the law of the Age of Consent as it is, or

(2) making an advance on the present law.

3. Are crimes of seduction or rape frequent in your part of the country ? Has the amendment of the law made in 1925 raising the age of consent to 14 years succeeded in preventing or reducing cases of rape outside the marital state, or the improper seduction of girls for immoral purposes ? If not, what measures would you propose to make the law effective ?

4. Has the amendment of 1925 raising the age of consent within the marital state to 13 years been effective in protecting married girls against cohabitation with husbands within the prescribed age limit—

(1) by postponing the consummation of marriage,

(2) by stimulating public opinion in that direction, or

(3) by putting off marriage beyond 13.

If not, what steps would you propose to make it effective ?

5. What is the usual age at which girls attain puberty in your part of the country ? Does this differ in different castes, communities or classes of society ?

6. Is cohabitation common in your part of the country among any class or classes of people—

(1) before puberty

(2) soon after puberty

(3) before the girl completes 13 years.

Do any of these cases come to court ?

7. Do you attribute the practice of the early consummation of marriage before or at puberty, wherever it exists, to religious injunction ? If so, what is the authority for and nature of that injunction, and does that authority prescribe any, and what penalty for its breach ?

8. Is 'Gaona' or 'Garbhadan' ceremony usually performed in your part of the country ? If so, does it coincide with or is it anterior to the consummation of marriage. Is it performed generally after the attainment of puberty and how soon after it ?

9. Do you consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage ? If not, at what age and how long after puberty may a girl's physical development be considered to be enough to justify such consummation without injury to her own health and that of her progeny ?

10. At what age would a girl in India be competent to give an intelligent consent to cohabitation with a due realization of consequences ?

11. During your experience, professional or otherwise, have you come across cases in which cohabitation before puberty, or after puberty but before full physical development of a girl resulted in injury to her health or body or prejudicially affected her progeny ? If any, give details of age and injury sustained.

M226HD

12. Do you consider early consummation and early maternity responsible for high maternal and infantile mortality, or for any other results vitally affecting the intellectual or physical progress of the people ?

13. Has there been any further development of public opinion in your part of the country in favour of an extension of the age of consent in marital and extra marital cases since the amendment of the law in 1925 ? If so, is it general or confined only to certain classes ?

14. Do women in your part of the country favour early consummation of marriage for their children ?

15. Have any difficulties been experienced in determining the age of girls in connection with offences under sections 375 and 376 of the Indian Penal Code ? What measures would you suggest to remove or minimise these difficulties ?

16. Would the difficulty or margin of error in determining the age be materially reduced or minimised if the age of consent is raised to 14 years or above ?

17. Would you separate extra marital and marital offences into different offences ? If so, what is the nature and amount of maximum punishment you would prescribe for offences of each class ?

18. Would you make a difference in the procedure of trials for offences within and without the marital state and if so, what would you suggest in each case ?

19. Would you suggest any safeguards beyond those existing at present against collusion to protect the offender or against improper prosecution or extortion ?

20. Do you consider that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage ? Which of the two alternatives would be in consonance with public opinion in your part of the country ?

21. Would you prefer to rely on the strengthening of the penal law to secure the object in view or on the progress of social reform by means of education and social propaganda ?

# EXTRACTS FROM THE INDIAN PENAL CODE.

NOTE.—*The bracketted portions are to be omitted from and those in italics are to be added to the original as per Sir Hari Singh Gour's Bill.*

SECTION 375.

375. Rape.—A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under (fourteeen) *sixteen* years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

SECTION 376.

376. Punishment for rape.—Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine (unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both).

*Section 376-A.*

*376-A. Whoever has sexual intercourse with his own wife, the wife not being under thirteen years of age and being under fourteen years of age, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

*Illicit married intercourse.*

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Extracts from the Code of Criminal Procedure 1898, Schedule II.

* * * * * * * * * *

Of Rape.

| XLV of 1860 Section. | Offence. | Whether the Police may arrest without warrant or not. | Whether a warrant or a summons shall ordinarily issue in the first instance. | Whether bailable, or not. | Whether compoundable or not. | Punishment under the Indian Penal Code. | By what co triable. |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 376 | Rape—<br>(If the sexual intercourse was by a man with his own wife not being under 12 years of age). | (Shall not arrest without warrant). | (Summons) | (Bailable) .. | (Not compoundable). | (Imprisonment of either description for 2 years, or fine, or both). | (Court of Session, Chief Presidency Magistrate or District Magistrate). |
| | If the sexual intercourse was by a man with his own wife being under (12) *13* years of age. | Shall not arrest without warrant. | Summons .. | Bailable .. | Not compoundable. | Transportation for life, or imprisonment of either description for 10 years and fine. | Court of Session. |
| | In any other case | May arrest without warrant | Warrant .. | Not bailable | Do. .. | Do. .. | Court of Session. |
| *376-A* | *Illicit married intercourse by husband with wife not under 13 and under 14 years of age.* | *Shall not arrest without warrant.* | *Summons* .. | *Bailable* .. | *Not compoundable.* | *Imprisonment of either description for 2 years, or with fine, or both.* | *Presidency Magistrate or magistrate of the first class.* |

## HOME DEPARTMENT.

### RESOLUTION.

JUDICIAL.

*Simla, the 25th June, 1928.*

No. F.-382|27.—The question of raising the age of consent as prescribed by section 375 of the Indian Penal Code has been agitating the public mind and engaging the attention of the Indian Legislature for some time. In 1922 Rai Bahadur Bakshi Sohan Lal introduced a Bill in the Legislative Assembly with the object of raising the age from 12 to 14 years both within and outside the marital relationship. The Bill was circulated for the purpose of eliciting opinions, but the Legislative Assembly refused to commit the Bill to a Select Committee. In 1924 Sir Hari Singh Gour introduced in the Legislative Assembly an identical Bill which was referred to a Select Committee. The Bill as amended by the Committee was circulated for the purpose of eliciting opinions, and it was recommitted to a Select Committee. It was, however, rejected by the Assembly. Then the Government of India themselves introduced a Bill on the lines settled by the Select Committee. It raised the age of consent from 12 to 14 years outside and to 13 within the marital relationship, and provided for separate punishment for sexual intercourse by a man with his own wife when she was below thirteen but not under twelve years of age. This Bill became law as Act XXIX of 1925. Sir Hari Singh Gour promoted further legislation in March 1927 with the object of raising the age of consent from 14 to 16 outside the marital relationship, and of protecting married girls between 13 and 14 years of age. This Bill has been circulated for the purpose of eliciting opinions. In the course of the debates on this Bill a promise was made on behalf of the Government of India to appoint a Committee to investigate the whole matter, as it appeared to them that the appointment of such a Committee would stimulate and concentrate public opinion with a view to formulating lines of further possible advance.

2. Accordingly the Governor-General in Council has decided to appoint a Committee which will start work at an early date. The terms of reference will be as follows :—

(1) to examine the state of the law relating to the age of consent as contained in sections 375 and 376 of the Indian Penal Code, specially with regard to its suitability to conditions in India,

(2) to inquire into the effect of the amendments made by the Indian Penal Code (Amendment) Act, 1925 (XXIX of 1925), and to report whether any further amendment of the law is necessary and if so what changes are necessary as regards offences (*a*) without and (*b*) within the marital state.

3. The Committee will be composed as follows :—

*Chairman.*

1. Sir Moropant Vishwanath Joshi, Kt., K.C.I.E., late Home Member of the Executive Council of the Governor of the Central Provinces.

*Members.*

2. Rai Bahadur Pandit Kanhaiya Lal, late Judge of the Allahabad High Court.
3. Mr. A. Ramaswami Mudaliyar, lately a Member of the Madras Legislative Council.
4. Khan Bahadur Mahbub Mian Imam Baksh Kadri, O.B.E., lately a District and Sessions Judge in the Bombay Presidency, and now Chief Judicial Officer of the Junagadh State.
5. Mrs. M. O'Brien Beadon, M.B., B.S., (London) L.S.A., Superintendent, Victoria Government Hospital, Madras.
6. Mrs. Brij Lal Nehru.

The Secretary to the Committee will be appointed hereafter.

4. The Committee will visit such places as they may consider necessary, and will take evidence on the questions stated in the terms of reference. Persons who desire to be called as witnesses should apply in writing to the Secretary, care of Home Department, Government of India, Simla, giving their full names and addresses together with a brief memorandum of the points in regard to which they desire to give evidence. It will of course rest with the Committee to decide what evidence they will hear.

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ORDER.—Ordered that a copy of the above resolution be published in the *Gazette of India*, and communicated to all local Governments and Administrations, for information. Also that a copy be forwarded to the Secretary to the Committee for information. Further that a copy be forwarded to the Foreign and Political Department, for information and communication to the Chief Commissioners of British Baluchistan and Ajmer Merwara.

J. A. SHILLIDY,
*Offg. Joint Secy. to the Govt. of India.*

H184HD—670—27-6-28—GIPS

Sir MOROPANT VISHWANATH JOSHI,
Kt., K.C.I.E., *Chairman.*
*Members.*
Rai Bahadur Pandit KANHAIYA LAL.
MR. A. RAMASWAMI MUDALIYAR.
Khan Bahadur MAHBUB MIAN IMAM BAKSH KADRI, O.B.E.
Mrs. M. O'BRIEN BEADON, M.B., B.S., (London), L. S. A.
Mrs. BRIJ LAL NEHRU.

No. 42 A. C. C.

FROM

M. D. SAGANE, ESQ., M.A., LL.B.,
*Secretary, Age of Consent Committee,*

TO

*'Beverley' Simla, the July 1928.*

SIR,

You might be aware that the Government of India have by their Resolution no. F.-382-27-Judicial, dated the 25th June 1928, appointed a Committee to enquire and report about the law regarding 'Age of Consent' as contained in Sections 375 and 376 Indian Penal Code. The Committee has since commenced its work and will soon proceed to visit some places in India with a view to take evidence, if necessary, on the terms of reference.

2. Before setting out on tour the Committee proposes to elicit public opinion on certain points and would much appreciate an expression of your views on them. The chairman has therefore directed me to send a copy of the questionnaire prepared by the Committee for the purpose, and to obtain your views in writing in reply to it. Accordingly you are hereby requested to be so good as to help the Committee by sending your reply direct to me at Simla before the 15th of August next. In giving your answers you will please give reasons for the same wherever necessary, as a mere negative or affirmative statement 'yes' or 'no' would help the Committee very little.

3. I would draw your attention to the fact that this Committee is to investigate the matters only with regard to the law of 'Age of Consent' as laid down in sections 375 and 376, Indian Penal Code, and not in connection with Mr. Sarda's Bill which proposes to penalize child marriages. The latter is not directly within the purview of the Committee's enquiry. Nevertheless it is open to you to suggest, if you like, that the remedies both under the sections of the Indian Penal Code as well as those suggested in Mr. Sarda's Bill, or either of them may be adopted. I would also point out that even if Mr. Sarda's bill is passed (as it has emerged from the Select Committee) and marriages below 14 and 18 for girls and boys respectively are penalised, sexual connection by a husband after 13 and by a stranger after 14 if considered undesirable from the medical point of view or otherwise is not covered by Sections 375 and 376, Indian Penal Code, as they exist now. To facilitate reference the two sections of the Indian Penal Code are appended herewith, also the corresponding schedule from the Criminal Procedure Code, to show the safeguards that at present exist in trials under the said sections.

4. Further I have to inform you that you will be called to give oral evidence only when the Committee thinks it necessary for the elucidation of certain point or points in your written statement or for any other special reason. You will therefore please indicate in your written reply if you are agreeable to be examined orally if so required by this Committee. The date and place of the oral evidence will be intimated to you in due course after the itinerary of the Committee is fixed. In case you are orally examined you will get travelling and daily allowances at the prescribed rates.

I have the honour to be,

SIR,

Your most obedient servant,

M. D. SAGANE,

*Secretary, Age of Consent Committee.*

M226HD—10,000.—16-7-28—GIPS

Sir Moropant Vishwanath Joshi,
Kt., K.C.I.E., *Chairman.*
*Members.*
Rai Bahadur Pandit Kanhaiya Lal.
Mr. A. Ramaswami Mudaliyar.
Khan Bahadur Mahbub Mian Imam
Baksh Kadri, O.B.E.
Mrs. M. O'Brien Beadon, M.B., B.S.,
(London), L. S. A.
Mrs. Brij Lal Nehru.

No. 42 A. C. C.

From

M. D. SAGANE, Esq., M.A., LL.B.,
*Secretary, Age of Consent Committee,*

To

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I have the honour to be,

Sir,

Your most obedient servant,

M. D. SAGANE,

*Secretary, Age of Consent Committee.*

M226HD—10,000—16-7-28—GIPS

# ΞE AGE OF CONSENT COMMITTEE.

## QUESTIONNAIRE.

NOTE.—*The queries below may be answered wholly or in part according to the sphere of experience of each person answering. Persons willing to answer should send their written replies so as to reach the Secretary, Age of Consent Committee, Simla, by the 15th August at the latest.*

1. Is there any dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code ?

2. What are the circumstances which in your opinion justify—

(1) retaining the law of the Age of Consent as it is, or

(2) making an advance on the present law.

3. Are crimes of seduction or rape frequent in your part of the country ? Has the amendment of the law made in 1925 raising the age of consent to 14 years succeeded in preventing or reducing cases of rape outside the marital state, or the improper seduction of girls for immoral purposes ? If not, what measures would you propose to make the law effective ?

4. Has the amendment of 1925 raising the age of consent within the marital state to 13 years been effective in protecting married girls against cohabitation with husbands within the prescribed age limit—

(1) by postponing the consummation of marriage,

(2) by stimulating public opinion in that direction, or

(3) by putting off marriage beyond 13.

If not, what steps would you propose to make it effective ?

5. What is the usual age at which girls attain puberty in your part of the country ? Does this differ in different castes, communities or classes of society ?

6. Is cohabitation common in your part of the country among any class or classes of people—

(1) before puberty

(2) soon after puberty

(3) before the girl completes 13 years.

Do any of these cases come to court ?

7. Do you attribute the practice of the early consummation of marriage before or at puberty, wherever it exists, to religious injunction ? If so, what is the authority for and nature of that injunction, and does that authority prescribe any, and what penalty for its breach ?

8. Is 'Gaona' or 'Garbhadan' ceremony usually performed in your part of the country ? If so, does it coincide with or is it anterior to the consummation of marriage. Is it performed generally after the attainment of puberty and how soon after it ?

9. Do you consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage ? If not, at what age and how long after puberty may a girl's physical development be considered to be enough to justify such consummation without injury to her own health and that of her progeny ?

10. At what age would a girl in India be competent to give an intelligent consent to cohabitation with a due realization of consequences ?

11. During your experience, professional or otherwise, have you come across cases in which cohabitation before puberty, or after puberty but before full physical development of a girl resulted in injury to her health or body or prejudicially affected her progeny ? If any, give details of age and injury sustained.

M226HD

12. Do you consider early consummation and early maternity responsible for high maternal and infantile mortality, or for any other results vitally affecting the intellectual or physical progress of the people ?

13. Has there been any further development of public opinion in your part of the country in favour of an extension of the age of consent in marital and extra marital cases since the amendment of the law in 1925 ? If so, is it general or confined only to certain classes ?

14. Do women in your part of the country favour early consummation of marriage for their children ?

15. Have any difficulties been experienced in determining the age of girls in connection with offences under sections 375 and 376 of the Indian Penal Code ? What measures would you suggest to remove or minimise these difficulties ?

16. Would the difficulty or margin of error in determining the age be materially reduced or minimised if the age of consent is raised to 14 years or above ?

17. Would you separate extra marital and marital offences into different offences ? If so, what is the nature and amount of maximum punishment you would prescribe for offences of each class ?

18. Would you make a difference in the procedure of trials for offences within and without the marital state and if so, what would you suggest in each case ?

19. Would you suggest any safe uards beyond those existing at present against collusion to protect the offender or against improper prosecution or extortion ?

20. Do you consider that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage ? Which of the two alternatives would be in consonance with public opinion in your part of the country ?

21. Would you prefer to rely on the strengthening of the penal law to secure the object in view or on the progress of social reform by means of education and social propaganda ?

# EXTRACTS FROM THE INDIAN PENAL CODE.

NOTE.—*The bracketted portions are to be omitted from and those in italics are to be added to the original as per Sir Hari Singh Gour's Bill.*

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375. Rape.—A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under (fourteeen) *sixteen* years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

SECTION 376.

376. Punishment for rape.—Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine (unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both).

*Section 376-A.*

*376-A. Whoever has sexual inter :ourse with his own wife, the wife not being under thirteen years of age and being under fourteen years of age, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

*Illicit married intercourse.*

Extracts from the Code of Criminal Procedure 1898, Schedule II.

* * * * * * * * * *

Of Rape.

| XLV of 1860 Section. | Offence. | Whether the Police may arrest without warrant or not. | Whether a warrant or a summons shall ordinarily issue in the first instance. | Whether bailable, or not. | Whether compoundable or not. | Punishment under the Indian Penal Code. | By what court triable. |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 376 | Rape—<br>(If the sexual intercourse was by a man with his own wife not being under 12 years of age). | (Shall not arrest without warrant). | (Summons) | (Bailable) .. | (Not compoundable). | (Imprisonment of either description for 2 years, or fine, or both). | (Court of Session, Chief Presidency Magistrate or District Magistrate). |
| | If the sexual intercourse was by a man with his own wife being under (12) *13* years of age. | Shall not arrest without warrant. | Summons .. | Bailable .. | Not compoundable. | Transportation for life, or imprisonment of either description for 10 years and fine. | Court of Session. |
| | In any other case | May arrest without warrant | Warrant .. | Not bailable | Do. ... | Do. .. | Court of Session. |
| *376-A* | *Illicit married intercourse by husband with wife not under 13 and under 14 years of age.* | *Shall not arrest without warrant.* | *Summons* .. | *Bailable* .. | *Not compoundable.* | *Imprisonment of either description for 2 years, or with fine, or both* | *Presidency Magistrate or magistrate of the first class.* |

# THE AGE OF CONSENT COMMITTEE.

## QUESTIONNAIRE.

NOTE.—*The queries below may be answered wholly or in part according to the sphere of experience of each person answering. Persons willing to answer should send their written replies so as to reach the Secretary, Age of Consent Committee, Simla, by the 15th August at the latest.*

1. Is there any dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code ?

2. What are the circumstances which in your opinion justify—

(1) retaining the law of the Age of Consent as it is, or

(2) making an advance on the present law.

3. Are crimes of seduction or rape frequent in your part of the country ? Has the amendment of the law made in 1925 raising the age of consent to 14 years succeeded in preventing or reducing cases of rape outside the marital state, or the improper seduction of girls for immoral purposes ? If not, what measures would you propose to make the law effective ?

4. Has the amendment of 1925 raising the age of consent within the marital state to 13 years been effective in protecting married girls against cohabitation with husbands within the prescribed age limit—

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(2) by stimulating public opinion in that direction, or

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If not, what steps would you propose to make it effective ?

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M226HD

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## *Section 376-A.*

*376-A. Whoever has sexual intercourse with his own wife, the wife not being under thirteen years of age and being under fourteen years of age, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

*Illicit married intercourse.*

---

## Extracts from the Code of Criminal Procedure 1898, Schedule II.

* * * * * * * * * * *

### Of Rape.

| XLV of 1860 Section. | Offence. | Whether the Police may arrest without warrant or not. | Whether a warrant or a summons shall ordinarily issue in the first instance. | Whether bailable, or not. | Whether compoundable or not. | Punishment under the Indian Penal Code. | By what court triable. |
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S. 7.

2

| FROM | TO |
| --- | --- |
| THE Secretary to the Resident in Mysore, Bangalore. | THE Secretary, Age of Consent Committee, Simla. |

Post copy of Telegram No. 7258. , dated the 2nd August 1928.

Kindly send 10 copies of each of documents forwarded with your letter 41-A.C.C., July 20th.

---

o/c Todd Captain.

REGISTRAR, RESIDENT'S OFFICE.

B.

MGIPC—FP—81DCF—S&P—(G-194)—2-6-27—60,000.

[R. O. 106 (a)].

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE, 3

*Bangalore,* 2/8/ 1928

No. 7270 ENCLOS. 5 & with spare copies

A copy of the marginally* noted letter, and of its enclosures, is forwarded to the Collector, C.&T. Station, Bangalore, for favour of necessary action with reference to para 2 of the letter, and report to this office as early as possible.

*No. 41-Ag. C, dated the 25th July, 1928 from the Secretary, Age of Consent Committee

O SN. 1 (Co. no)

2. A copy of the Govt. of India Home Dept. Resolution No. F. 382-27-Judicial, dated the 25th June, 1928, (Rep. No. X) is also enclosed.

*Secretary to the Resident.*

S/ W. D. Thorne

-15-9-1927—5,000—RPB.

CRS. 2/8/28

2/8/28

4

AGE OF CONSENT COMMITTEE.

No: 161 A. C. C.

From

M. D. Sagane Esq., M.A., LL.B.,

Secretary, Age of Consent Committee

To

The Chief Commissioner,

Coorg and Resident Mysore,

Bangalore.

RESIDENT'S OFFICE
BANGALORE
Register No. 7781
Date of Receipt 8/8/28

"Beverley" Simla, the 31st Aug. '28.

Sir,

S.N. 2 / 1 P / 1 P - O S N. 1. / attached

With reference to your telegram No: 7158 dated the 2nd August 1928, I have the honour to forward ten copies of the documents forwarded with my letter No: 41 A.C.C. dated the 20th July 1928, excluding of course the typed list enclosed therewith.

I have the honour to be,

Sir,

Your most obedient servant.

M.D. Sagane

Secretary,
Age of Consent Committee.

GM.

U R G E N T.

RESIDENT'S OFFICE
BANGALORE.
Register No. 7993
Date of Receipt 15/8/28
File No.

No. 3731-B-28.

5

Office of the Collector,
Civil and Military Station, Bangalore.

*Dated* 13th August 1928.

FROM

T. B. Russell, Esquire, I. C. S.,

COLLECTOR, CIVIL AND MILITARY STATION,

BANGALORE,

To

The Secretary to the Hon'ble the Resident
in Mysore, B a n g a l o r e.

SIR,

Age of Consent Committee - Opinions of individuals and representative institutions invited - Your No. 7270/445-1928, dated 3rd August 1928.

---

I have selected the persons noted in the margin* who will give necessary information to the Committee by way of written statements or oral evidence. The necessary documents have been sent to them.

* 1. Dr. (Miss.) Finch,
C.E.Z.M. Hospital,
Cleveland Town, Bangalore.

2. Munsiff Magistrate,
C & M Station, Bangalore.

3. Mr. J.R. Sivasubramaniam,
Chairman, Bench of Magistrates,
C & M Station, Bangalore.

2. Kindly send me for my file a spare copy of each of the documents mentioned in paragraph 2 of letter No. 41-A.C.C., dated 20-7-1928 of the Secretary, Age of Consent Committee.

I have the honour to be,
Sir,
Your most obedient servant,

14 AUG. 1928

COLLECTOR.

DEPARTMENT. File No.

BRANCH. Serial No.

**Draft** Letter / Memorandum / Telegram

Class for telegrams — Ordinary / Express / Urgent* / Priority / Clear Line† — *Only for Foreign Telegrams. †Not for Foreign Telegrams.

To be issued on | Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading :

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

(Code word for telegrams.)

No. 7728 Dated 8/8/ 1928

From The Secy to the Resident

To

The Secretary,
Age of Consent Committee,
Simla

Enquiries by the Age of Consent Committee - The names of the persons selected in the C.M. station of Bangalore.

Sir,

With reference to para 2 of your letter No. 41- A. C. C., dated the 20th July, 1928, I am directed to state that the marginally noted persons have been selected in the C.M. station of Bangalore and will give the necessary information to the Committee by way of written statements or oral evidence on the subject. The necessary documents have been sent to them.

I have

SN.1

Dr. (Miss) Finch,
C. E. & M. Hospital,
Cleveland Town,
C.M. Station, Bangalore.

2. The Munsiff Magistrate,
C.M. Station, Bangalore.

3. M. J. R. Sivasubramaniam,
Chairman, Bench of Magistrates,
C.M. Station, Bangalore.

S. 5.

MGIPC—FP—437DCF—S&P—(G-1478)—20-1-27—15,000 Pads.

I have, &c,

/s/ A. C. Lothrop

Secy to the President

CMSS
15/8/28

15/8/28

DEPARTMENT. File No. 7

BRANCH. Serial No.

**Draft** Letter / Memorandum / Telegram

Class for telegrams — Ordinary / Express / Urgent* / Priority / Clear Line† — *Only for Foreign Telegrams. †Not for Foreign Telegrams.

No. 7723 Dated 15/8/ 1928

From The Secretary to the Resident.

To

The Collector, Cent. station, Bangalore

To be issued on | Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading : Enquiry by the Age of Consent Committee

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

(Code word for telegrams.)

Sir,

With reference to para 2 of your letter No. 3731-B-28, dated the 13th August, 1928, I am directed to forward five copies each of the documents referred to in para 2 of letter No. 41-A.C.C, dated the 25th July, 1928, from the Secretary, Age of Consent Committee.

I have, &c.,

Sd/ H.C. Fookes

Secy. to the Resident

C.K.S. 15/8/28

Sd/ 15/8

S. 5.

MGIPC—FP—437DCF—S&P—(G-1478)—29-1-27—15,000 Pads.

Original in camp office notes para (11) file 4(e) 22

Rec'd from C.P. on 2.10.28

D.O.No.F.382/27-Judicial,

Government of India,

Home Department.

Simla, the 22nd August 1928.

4(e)

Subject:- Age of Consent Committee. 9537 3/10/28

---

Dear Pears,

With reference to the Home Department Resolution No.F.382/27, dated the 25th June 1928, a copy of which was endorsed to you, I am desired to say that the tour of the Age of Consent Committee will commence about the 16th September 1928. A copy of the tour programme will be communicated in due course by the Secretary of the Committee. The Government of India will be glad if you will render all facilities to the Committee in the matter of suitable office accommodation for the members while conducting their enquiries in Coorg and also such assistance as lies in your power in regard to any matter on which the Committee may approach you.

Yours sincerely,

Sd.J.A.Shillidy.

To

The Hon'ble Mr.S.E.Pears, C.S.I., C.I.E.,
Chief Commissioner,
Coorg.

---

Copy to R.O.

Original in Coorg Office File No. 46/22 - P. 54
Recd from CO. on 2.10.28

Letter No.377 A.C.C., dated the 13th September 1928 from the Secretary, Age of Consent Committee, 'Beverley', Simla, to the Chief Commissioner, Coorg.

---

I have the honour to forward for your information a copy of the tour programme of the Age of Consent Committee.

---

4/10 95/38 3/10/28 445/28

AGE OF CONSENT COMMITTEE
TOUR PROGRAMME.

September 1928.

| | | |
|---|---|---|
| 16th(Sunday) | Simla. | Dep.16-24. |
| 17th | Lahore | Arr. 7-35. |
| | Halt 17th, 18th, 19th, 20th & 21st. | |
| 21st | " | Dep.21-50. |
| 22nd | Peshawar | Arr. 8-30. |
| | Halt 22nd, 23rd(Sunday), 24th, 25th&26t | |
| 26th | " | Dep.22-50. |
| 27th | Rawalpindi. | Arr. 6-20. |
| | | Dep.22-00. |
| 29th | Karachi | Arr. 8-10. |
| | Halt 29th, 30th(Sunday), October 1st, 2nd, 3rd & 4th. | |

October 1928.

| | | |
|---|---|---|
| 4th | " | Dep.20- 8. |
| 5th | Rohri | Arr. 5-28. |
| | | Dep. 5-48. |
| 7th(Sunday) | Delhi | Arr. 7-40. |
| | Halt 8th, 9th, 10th & 11th. | |
| 12th | " | Dep. 8-15. |
| 13th | * Ahmedabad | Arr. 7-13. |
| | Halt 14th(Sunday), 15th, 16th, 17th, 18th & 19th. | |
| 19th | " | Dep.20-25. |
| 20th | Bombay(Colaba) | Arr. 7- 2. |
| | Halt 20th, 21st(Sunday),(22nd & 23rd- Dussehra), 24th, 25th, 26th, 27th, 28th(Sunday) & 29th. | |
| 30th | Bombay(V.T.) | Dep.14-15. |
| | Poona | Arr.18-40. |

November 1928.

| | | |
|---|---|---|
| | Halt 1st, 2nd, 3rd, 4th(Sunday) & 5th. | |
| 5th | Poona. | Dep.20-15. |
| 7th | Bangalore | Arr. 6-40. |
| | | Dep.22-00. |
| 8th | Mysore | Arr, 6-00. |
| | Halt 8th and 9th. | |

* It is possible that Committee may be arriving by the metre guage mail at 21-20 on the 13th October, but local Govt. will be informed of the change.

November 1928.(Contd.)

| | | |
|---|---|---|
| 10th | Mysore | Dep. by car. |
| | Ootacamund | Halt 10th. |
| 11th | " | Dep. by car. |
| | Calicut | Arr. " " |
| | Halt(12th & 13th - Diwali), 14th & 15th. | |
| 16th | " | Dep. 13-22. |
| 17th | Madras(Central) | Arr. 6-00. |
| | Halt 17th, 18th(Sunday), 19th,20th, 21st, 22nd, 23rd, 24th & 25th (Sunday). | |
| 25th | " (Egmore) | Dep. 20-30. |
| 26th | Madura | Arr. 11- 5. |
| | Halt 27th, 28th, 29th & 30th. | |

December 1928.

| | | |
|---|---|---|
| 1st | Madura | Dep. 15-50. |
| 3rd | Vizagapatam | Arr. 14-35. |
| | Halt 4th and 5th. | |
| 6th | " | Dep. 12-00. |
| 7th | Calcutta (Howrah) | Arr. 11-20. |
| | Halt 8th, 9th(Sunday), 10th, 11th, 12th, 13th & 14th. | |
| 15th | Calcutta (Sealdah) | Dep. 21-46. |
| 16th | Dacca | Arr. 13-42. |
| | Halt 17th, 18th & 19th. | |
| 20th | " | Dep. 11-20. |
| 21st | Calcutta (Sealdah) | Arr. 5-20. |
| | Halt(21st December 1928 to 1st Jany 1929- X'mas and New Year Holidays). | |

January 1929.

| | | |
|---|---|---|
| 2nd | Calcutta (Sealdah) | Dep. 19-06. |
| 3rd | Patna | Arr. 7-12. |
| | Halt 3rd, 4th, 5th, 6th(Sunday) & 7th. | |
| 8th | " | Dep. 9-22. |
| | Benares | Arr. 14-41. |
| | Halt 9th, 10th, 11th & 12th. | |
| 12th | " | Dep. 22-15. |
| 13th | Allahabad City. | Arr. 6-47. |
| | Halt 13th(Sunday), 14th, 15th & 16th. | |
| 16th | " | Dep. 22-40. |
| 17th | Lucknow | Arr. 5-50. |
| | Halt 17th, 18th, 19th, 20th(Sunday), & 21st. | |
| 22nd. | " | Dep. 10-50. |
| 23rd. | Nagpur. | Arr. 14-35. |
| | Halt | |

January 1929.(Contd.)

| | | |
|---|---|---|
| 23rd. | Nagpur. | Arr. 14-35. |
| | Halt 24th, 25th, 26th, 27th(Sunday). | |
| 27th | " | Dep. 21-20. |
| 28th | DELHI | Arrival.18-00. |

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"Copy to R. O."

Original in C.7 28/28

D.O.No.F.382/27-Judicial.

Home Department.

Simla, the 12th October, 1928.

Subject:- Visit of the Age of Consent Committee to Mysore.

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Dear Mr. Lothian,

I am desired to acknowledge the receipt of your demi-official letter to Mr. Shillidy, No.101, dated the 2nd October, 1928, on the above subject. The Committee are aware that Mysore is not British India, and do not propose to hold any inquiry or take any evidence there. The object of their visit to that place is only to take rest in the course of the long journey from Poona to Calicut.

Yours sincerely,

Sd/- Stuart.

To

A.C.Lothian, Esquire, I.C.S.,

Secretary to the Chief Commissioner of Coorg.

10

Form No. 3.

**Please quote**

No. 2324-P.
F.536-29.
*in further correspondence on the subject of this communication.*

*From*

MAJOR H.W.C. ROBSON, I.A.,

Secretary to the Hon'ble the Resident

at Hyderabad.

*To*

The Secretary to the Hon'ble the Resident

in Mysore,

Bangalore.

In reply to this communication kindly be addressed to the Secretary to the Hyderabad by designation and not by name.

*Dated Hyderabad Residency, the 3rd April 1929.*

Subject:- Legislation regarding the age of consent and for marriage.

Sir,

I am directed to inform you that His Exalted Highness the Nizam's Government are desirous to know whether the Mysore State has passed any legislation fixing the age for marriage and the age of consent.

2. If any such legislation has been passed, I am to request you kindly to favour me with copies of the laws for transmission to His Exalted Highness the Nizam's Government.

I have the honour to be,

Sir,

Your most obedient servant,

H W C Robson

Major,

Secretary to the Resident
at Hyderabad.

C.S.R.

[P. 106.]

Communications
uld be addressed
ie Secretary to the
esident in Mysore,
Bangalore,
gnation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

*Bangalore,* 22-4-1929

No. 3838 Encl. 1.

A copy of the marginally* noted letter, ~~with enclosure,~~ is forwarded with compliments, to the Chief Secretary to the Government of H. H. the Maharaja of Mysore, with the request that, if there be no objection, the information ~~xxxx~~ desired therein may be furnished to His Residency for transmission to ~~xxx~~ His Exaltdd Highness the Nizam's Govt.

*No. 2324-p / F.536-29 dated 3-4-29 from the Secretary to the Resident at Hyderabad.

Sdl-W. O. Shepherd Major
*for Secretary to the Resident.*

531—15-9-1927—5,000—RPB.

CVR 11.4.29

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. Pol. 1122 Encls 2 Dated, Bangalore, 6 May 1929.

From

P. Mahadevayya, Esq, B.A.B.L.,

*Secretary to the Government of His Highness the Maharaja of Mysore,*
Law ~~Local and Legislative~~ *Departments.*

13/5/29

RESIDENT
BANGALORE
Register No. 4629
Date of Receipt 7/5/29
File No. 2445
29

To

*The Secretary to the Hon'ble the Resident in Mysore,*
*Bangalore.*

Sir,

N.11 (E) With reference to your endorsement No.3535 dated 22nd April 1929, I am directed to forward herewith, for the information of H.E.H. the Nizam's Government, a copy of the Mysore Infant Marriage Prevention Regulation, X of 1894, and a copy of Section 375 of the I.P.C. as in force in Mysore.

(X)

I have the honour to be,

Sir,

Your most obedient servant,

P. Mahadevayya

Secretary to Government,

Law Department.

TD

No. 45-73/Misc 2
25/5/29

From Secretary

To
The Secretary to the Hon'ble
the Resident at Hyderabad.

LEGISLATION REGARDING THE AGE OF ~~XX~~ CONSENT AND FOR MARRIAGE.

Sir,

S.N. 10 (D)

With reference to your letter No.2324-P/F536-29, dated the 3rd April, 1929, I am directed to forward, for the information of ~~HHE~~ His Exalted Highness the Nizam's Govt., a copy of the Mysore Infant Marriage Prevention Regulation, X of 1894, and a copy of Section 375 of the Indian Penal Code as in force in Mysore.

Encl. 6 p.n.c

I have etc.

Sd/- W. O. Pickwood Major.
for SECRETARY TO THE RESIDENT.

CVR
13.5.29

13/5/29